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8 *Detective Todd Edwards and*  
*Officer David Lunt*

9 UNITED STATES DISTRICT COURT  
10 DISTRICT OF NEVADA

11 JERMAINE HAMPTON,  
12 Plaintiff,  
13 vs.  
14 STATE OF NEVADA, et al.  
15 Defendants.

Case No. 2:20-cv-00578-APG-DJA

**LVMPD DEFENDANTS' MOTION TO  
EXTEND THE DISPOSITIVE MOTIONS  
DEADLINE AND PRETRIAL ORDER  
DEADLINE  
(Fifth Request)**

17 Detective Todd Edwards and Officer David Lunt (collectively "LVMPD Defendants"),  
18 by and through their counsel, Kaempfer Crowell, move for a forty-four day extension of the  
19 current deadline to file dispositive motions—from Wednesday, October 27, 2021, to Friday,  
20 December 10, 2021—and the pretrial order deadline—from Monday, November 29, 2021, to  
21 Wednesday, January 12, 2022. Two reasons support this extension. First, Defendants' Motions  
22 to Dismiss, (ECF Nos. 65, 69), and Plaintiff's Objection, (ECF No. 80), remain pending before  
23 the Court. Resolution of the Motions to Dismiss and Objection could result in dismissal of some  
24 or all of Plaintiff Jermaine Hampton's claims, which would affect the remaining issues left to be

1 addressed in motions for summary judgment. Second, Defendants are still waiting for a  
2 transcript of Jermaine Hampton's deposition that took place September 22, 2021. That transcript  
3 will be instrumental to summary judgment. LVMPD Defendants' counsel contacted the  
4 deposition transcriber, Depo International, earlier this month. But, as of this Motion's filing  
5 date, Depo International has not provided a transcript.

6 LVMPD Defendants attempted to secure a stipulation signed by all parties to extend the  
7 deadlines for dispositive motion and the joint pretrial order. Counsel to Codefendants Sarah  
8 Overly and Stephanie Getler ("Clark County Defendants") agreed to the extension through  
9 email, but Jermaine Hampton did not answer back to written correspondence.

10 DATED this 19th day of October, 2021.

11 KAEMPFER CROWELL

12 By: /s/ Lyssa S. Anderson

13 LYSSA S. ANDERSON (Nevada Bar No. 5781)  
14 KRISTOPHER J. KALKOWSKI (Nevada Bar No. 14892)  
15 1980 Festival Plaza Drive, Suite 650  
Las Vegas, Nevada 89135

16 *Attorneys for Defendants*  
17 *Detective Todd Edwards and*  
*Officer David Lunt*

18  
19  
20 **MEMORANDUM OF POINTS AND AUTHORITIES**

21 **I. BACKGROUND**

22 **A. Procedural History**

23 Plaintiff Jermaine Hampton has amended his Complaint several times throughout this  
24 lawsuit. Currently, his Third Amended Complaint, (ECF No. 64), serves as the operative

1 pleading, in accord with the Court's March 17, 2021 Order, (ECF No. 63). However, since that  
2 Order Plaintiff again moved to amend—this time, through a Fourth Amended Complaint. (Mot.  
3 Leave to File Fourth Am. Compl., ECF No. 71). Plaintiff also moved to amend his proposed  
4 Fourth Amended Complaint, (ECF No. 72).

5 The Honorable Magistrate Judge Daniel J. Albregts issued a Report and  
6 Recommendation ("R&R"), recommending that the Court deny Plaintiff's request to file a  
7 Fourth Amended Complaint. (R&R, ECF No. 77). Plaintiff filed an Objection to that R&R,  
8 (ECF No. 80), to which Defendants have filed Responses, (ECF Nos. 81, 84). The Court has not  
9 ruled on Plaintiff's Objection yet.

10 Aside from Plaintiff's Objection, there are two Motions pending before the Court: (1)  
11 Clark County Defendants' Motion to Dismiss, (ECF No. 65); and (2) LVMPD Defendants'  
12 Motion to Dismiss, (ECF No. 69).

13 The Court gave four extensions of deadlines during this lawsuit. (Orders, ECF Nos. 35,  
14 59, 68, 91). The basis for these prior extensions included the need for additional time to  
15 complete written discovery, difficulties scheduling Plaintiff's deposition in light of his  
16 incarcerated status, and discovery deadlines arising while motions remained pending before the  
17 Court.

18 During discovery, LVMPD Defendants provided Plaintiff initial Rule 26 disclosures and  
19 first, second, third, fourth, and fifth supplemental disclosures. LVMPD Defendants responded to  
20 seven separate Requests for Production of Documents from Plaintiff as well as his  
21 Interrogatories and Requests for Admissions. LVMPD Defendants served a third-party subpoena  
22 on the Nevada Department of Parole & Probation for relevant records to Plaintiff's claims, and  
23 LVMPD Defendants included the response from Nevada Department of Parole & Probation in a  
24 supplemental disclosure to Plaintiff. LVMPD Defendants served two sets of Interrogatories, two

sets of Requests for Admissions, and one Request for Production of Documents on Plaintiff. Last, LVMPD Defendants took Plaintiff's deposition on September 22, 2021.

Now that the discovery period has closed, the following deadlines govern:

Dispositive Motion Deadline: October 27, 2021

Pre-Trial Order: November 29, 2021

## **B. Meet-and-Confer Efforts**

On October 5, 2021, LVMPD Defendants' counsel emailed Clark County Defendants' counsel asking for their agreement to a proposed stipulation extending deadlines for the dispositive motion and pretrial order. Clark County Defendants' counsel agreed to the extension that same day. LVMPD Defendants counsel then mailed a letter to Plaintiff requesting the same and with a proposed stipulation for Plaintiff to sign. That letter gave Plaintiff until October 15, 2021, to approve or deny the requested new deadlines. **Ex. 1**, Letter to Plaintiff, dated October 5, 2021. Plaintiff did not provide a response by that deadline, nor has he done so by this Motion's filing date.

## **II. ARGUMENT**

This Motion arises before the current dispositive motions deadline of October 27, 2021. Thus, in accord with Local Rule 26-3, good cause must support the requested extension:

A motion or stipulation to extend a deadline set forth in a discovery plan must be received by the court no later than 21 days before the expiration of the subject deadline. A request made within 21 days of the subject deadline must be supported by a showing of good cause.

D. Nev. Local Rule 26-3.

Here, good cause exists for an extension of the dispositive motions deadline and pretrial order deadline. The parties diligently pursued discovery—as shown through the multiple written discovery responses, subpoenas to third-parties, and supplements to disclosures, and Plaintiff's

deposition. But, at this time, several hurdles prevent the parties from continuing to litigate this case on its merits. LVMPD Defendants have not yet received the transcript of Plaintiff's deposition. Further, the Defendants' Motions to Dismiss, (ECF Nos. 65, 69), and Plaintiff's Objection, (ECF No. 80), remain pending before the Court. These Motions to Dismiss could moot the need for additional dispositive motions, while the success of Plaintiff's Objection would result in a new pleading governing this case (a Fourth Amended Complaint). A minor extension of the dispositive motions deadline will ensure that these lingering hurdles are resolved before the parties must file motions for summary judgment.

No party will suffer prejudice if the Court extends deadlines. By contrast, proceeding with the current deadlines would result in the parties needlessly expending time and resources to prepare dispositive motions only to find, depending on the Court's ruling with pending Motions to Dismiss and Objection, that arguments are now moot.

For the reasons stated above, LVMPD Defendants respectfully request that this Court extend deadlines in this case as follows:

<u>Activity</u>	<u>Current Date</u>	<u>Proposed Date</u>
Dispositive Motions	October 27, 2021	December 10, 2021
Proposed Joint Pretrial Order	November 29, 2021	January 12, 2022

### **1) *Dispositive Motions***

All pretrial motions, including but not limited to, discovery motions, motions to dismiss, motions for summary judgment, and all other dispositive motions shall be filed and served no later than thirty days after the close of discovery, or by December 10, 2021.

### **2) *Motions in Limine***

Under LR 16-3(b), any motions in limine, including *Daubert* motions, shall be filed and served thirty days prior to the commencement of Trial. Oppositions shall be filed and served and

1 the motion submitted for decision fourteen days thereafter. Reply briefs will be allowed only  
2 with leave of the Court.

3 **3) *Pretrial Order***

4 Pursuant to LR 26(1)(e)(5), the Joint Pretrial Order shall be filed with this Court no later  
5 than thirty days after the date set for filing dispositive motions, or by January 12, 2022, unless  
6 dispositive motions are filed, in which case the date for filing the Joint Pretrial Order shall be  
7 suspended until thirty days after the decision on the dispositive motions or further order of this  
8 Court. The disclosures required by Fed. R. Civ. P. 26(a)(3) and any objections shall be included  
9 in the final pretrial order.

10 **4) *Extensions or Modification of the Discovery Plan and Scheduling Order***

11 In accordance with LR 26-3, applications to extend any date set by the discovery plan,  
12 scheduling order, or other order must, in addition to satisfying the requirements of LR 6-1, be  
13 supported by a showing of good cause for the extension. All motions or stipulations to extend a  
14 deadline set forth in a discovery plan shall be received by the Court not later than twenty-one  
15 days before the expiration of the subject deadline. A request made after the expiration of the  
16 subject deadline shall not be granted unless the movant demonstrates that the failure to set was  
17 the result of excusable neglect. Any motion or stipulation to extend a deadline or to reopen  
18 discovery shall include:

- 19 (a) A statement specifying the discovery completed;
- 20 (b) A specific description of the discovery that remains to be completed;
- 21 (c) The reasons why the deadline was not satisfied or the remaining discovery was  
22 not completed within the time limits set by the discovery plan; and
- 23 (d) A proposed schedule for completing all discovery.
- 24

1     **III. CONCLUSION**

2             For the reasons stated above, LVMPD Defendants move for a forty-four day extension of  
3     the deadline to file dispositive motions—from Wednesday, October 27, 2021, to Friday,  
4     December 10, 2021—and the pretrial order deadline—from Monday, November 29, 2021, to  
5     Wednesday, January 12, 2022.

6             DATED this 19th day of October, 2021.

7                             KAEMPFER CROWELL

8  
9             By: /s/ Lyssa S. Anderson

LYSSA S. ANDERSON (Nevada Bar No. 5781)

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10            1980 Festival Plaza Drive, Suite 650

11            Las Vegas, Nevada 89135

12                     *Attorneys for Defendants*

13                     *Detective Todd Edwards and*

14                     *Officer David Lunt*

15                             **INDEX OF EXHIBITS**

16     **Ex. 1** – Letter to Plaintiff, dated October 5, 2021

17  
18  
19                             **IT IS SO ORDERED.**

20                             DATED: October 21, 2021

21                             

22                             \_\_\_\_\_  
Daniel J. Albregts

23                             United States Magistrate Judge

**CERTIFICATE OF SERVICE**

I certify that I am an employee of KAEMPFER CROWELL, and that on the date below, I caused the foregoing **LVMPD DEFENDANTS' MOTION TO EXTEND THE DISPOSITIVE MOTIONS DEADLINE AND PRETRIAL ORDER DEADLINE (Fifth Request)** to be served via CM/ECF and/or First Class Mail (where indicated) addressed to the following:

Jermaine Hampton, #1221724  
Southern Desert Correctional Center  
P.O. Box 208  
Indian Springs, NV 89070

***Plaintiff, Pro Se***

*(Via U.S., First Class Mail)*

Steven B. Wolfson  
Scott R. Davis  
CLARK CO. DIST. ATTORNEY, CIV. DIV.  
500 S. Grand Central Pkwy., Ste. 5075  
Las Vegas, NV 89155-2215  
(702) 455-4761 ph  
(702) 382-5178 fax  
[Scott.Davis@ClarkCountyDA.com](mailto:Scott.Davis@ClarkCountyDA.com)

***Attorneys for Defendants  
Sarah Overly and Stephanie Getler***

DATED this 19th day of October, 2021.

/s/ Luisa Cota  
an employee of Kaempfer Crowell



# EXHIBIT 1

**Letter to Plaintiff, dated October 5, 2021**

EXHIBIT 1

**KAEMPFER**  
**CROWELL**

**KRISTOPHER J. KALKOWSKI**  
kkalkowski@kcnvlaw.com  
702.792-7008

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Tel: 775.852.3900  
Fax: 775.327.2011

**CARSON CITY OFFICE**  
510 West Fourth Street  
Carson City, NV 89703  
Tel: 775.884.8300  
Fax: 775.882.0257

October 5, 2021

**VIA FIRST CLASS MAIL**

Jermaine Hampton, #1221724  
Southern Desert Correctional Center  
P.O. Box 208  
Indian Springs, NV 89070

***Re: Jermaine Hampton v. State of Nevada, et al.***

Dear Mr. Hampton:

This letter concerns your lawsuit in the Federal District Court for the District of Nevada, Case No. 2:20-cv-00578-APG-DJA. The current deadline for parties to file a dispositive motion (such as a motion for summary judgment) is October 27, 2021. (*See* Order, ECF No. 91). However, we are still waiting on a certified transcript from your September 22, 2021 deposition. Also, the following motions are still pending before the Court:

- Jermaine Hampton's Objection, (ECF No. 80), regarding the Report and Recommendation denying Hampton's Motions to Amend, (ECF Nos. 71, 72);
- Clark County Defendants' Motion to Dismiss, (ECF No. 65);
- LVMPD Defendants' Motion to Dismiss, (ECF No. 69).

In light of these pending motions and time needed to finalize your deposition transcript, I'm requesting your agreement to a 44-day extension of the disposition motions deadline in your case. This extension will allow you and all defendants necessary time to evaluate the claims in this case and potentially receive decisions on pending issues.

To approve this request for an extension of the dispositive motions deadline, please sign the attached draft Stipulation and mail it back to my office by October 15, 2021. You may also call my office at any time between 8:30 AM to 5:30 PM to discuss and approve the draft Stipulation. My office phone number is (702) 792-7008. This draft Stipulation details the procedural history of this case, lists the reasons supporting an extension, and asks for a new deadline of December 11, 2021, for any party to file a dispositive motion.

KAEMPFER  
CROWELL

Jermaine Hampton  
October 5, 2021  
Page 2

If I do not receive a signed Stipulation or call from you by October 15, 2021, I will assume that you denied my request for an extension of time to file dispositive motions. I will then file a motion with the Court asking for an extension of this deadline and noting that you did not approve my prior request. I look forward to hearing from you soon.

Very truly yours,

KAEMPFER CROWELL

*/s/ Kristopher J. Kalkowski*

Kristopher J. Kalkowski

KJK:bj

Enclosed: Proposed Stipulation to Extension of Dispositive Motions Deadline

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*Attorneys for Defendants  
Detective Todd Edwards and  
Officer David Lunt*

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

JERMAINE HAMPTON ,

Plaintiff,

vs.

STATE OF NEVADA, et al.

Defendants.

Case No. 2:20-cv-00578-APG-DJA

**STIPULATION TO EXTEND THE  
DISPOSITIVE MOTIONS DEADLINE  
AND PRETRIAL ORDER DEADLINE**

IT IS HEREBY STIPULATED AND AGREED between Defendants, Detective Todd Edwards and Officer David Lunt (collectively “LVMPD Defendants”), by and through their counsel, Kaempfer Crowell; Defendants Sarah Overly and Stephanie Getler, by and through their counsel, the Clark County District Attorney’s Office; and Plaintiff Jermaine Hampton, pro se, that the dispositive motions deadline be continued for a period of forty-four days up to and including **Friday, December 10, 2021**, and the pretrial order deadline be continued for a period of forty-two days up to and including **Monday, January 10, 2022**.

**I. PROCEDURAL HISTORY**

Plaintiff Jermaine Hampton has amended his Complaint several times throughout this

lawsuit. Currently, his Third Amended Complaint, (ECF No. 64), serves as the operative pleading, in accord with the Court's March 17, 2021 Order, (ECF No. 63). However, since that Order, Plaintiff has again moved to amend—this time, through a Fourth Amended Complaint. (Mot. Leave to File Fourth Am. Compl., ECF No. 71). Plaintiff has also moved to amend his proposed Fourth Amended Complaint, (ECF No. 72).

The Honorable Magistrate Judge Daniel J. Albregts issued a Report and Recommendation ("R&R"), recommending that the Court deny Plaintiff's request to file a Fourth Amended Complaint. (R&R, ECF No. 77). Plaintiff filed an Objection to that R&R, (ECF No. 80), to which the Clark County Defendants have filed a Response, (ECF No. 81), as did LVMPD Defendants, (ECF No. 84). The Court has not yet ruled on the Objection.

Aside from Plaintiff's Objection, pending before the Court are two Motions: (1) Clark County Defendants' Motion to Dismiss, (ECF No. 65); and (2) LVMPD Defendants' Motion to Dismiss, (ECF No. 69). The Court has not yet ruled on these Motions.

The Court has given four extensions of discovery deadlines during this lawsuit. (Orders, ECF Nos. 35, 59, 68, 91). The basis for these prior extensions included the parties need for additional time to complete written discovery, difficulties scheduling Plaintiff's deposition in light of his incarcerated status, and discovery deadlines arising while motions remained pending before the Court. The following deadlines govern at this time:

Dispositive Motion Deadline: October 27, 2021

Pre-Trial Order: November 29, 2021

## **II. DISCOVERY HAS BEEN COMPLETED**

The deadline to complete Discovery in this matter has passed. LVMPD Defendants have provided their initial Rule 26 disclosures and their first, second, third, fourth, and fifth supplemental disclosures to Plaintiff. LVMPD Defendants responded to seven separate Requests

1 for Production of Documents from Plaintiff as well as his Interrogatories and Requests for  
2 Admissions. LVMPD Defendants served a third-party subpoena on the Nevada Department of  
3 Parole & Probation for relevant records to Plaintiff's claims, and LVMPD Defendants included  
4 the response from Nevada Department of Parole & Probation in a supplemental disclosure to  
5 Plaintiff. LVMPD Defendants served two sets of Interrogatories, two sets of Requests for  
6 Admissions, and one Request for Production of Documents on Plaintiff. Plaintiff responded to  
7 LVMPD Defendants written discovery. LVMPD Defendants took Plaintiff's deposition on  
8 September 22, 2021.

### 9 **III. AN EXTENSION OF DEADLINES IS WARRANTED**

10 This Stipulation arises before the current dispositive motions deadline of October 27,  
11 2021. Thus, in accord with Local Rule 26-3, only good cause must support it:

12 A motion or stipulation to extend a deadline set forth in a discovery plan  
13 must be received by the court no later than 21 days before the expiration  
14 of the subject deadline. A request made within 21 days of the subject  
15 deadline must be supported by a showing of good cause.

16 D. Nev. Local Rule 26-3.

17 Here, good cause exists for an extension of the dispositive motions deadline and pretrial  
18 order deadline. The parties diligently pursued discovery—as shown through the multiple written  
19 discovery responses, subpoenas to third-parties who hold relevant documents, and continued  
20 supplements to disclosures. But, at this time, several hurdles prevent the parties from continuing  
21 to litigate this case on its merits under current deadlines. LVMPD Defendants have not yet  
22 received the transcript of Plaintiff's deposition. Further, the Defendants' Motions to Dismiss,  
23 (ECF Nos. 65, 69), and Plaintiff's Objection, (ECF No. 80), remain pending before the Court.  
24 These Motions to Dismiss could moot the need for additional dispositive motions if granted,  
while the success of Plaintiff's Objection would result in a new pleading governing this case (a

Fourth Amended Complaint). A minor postponement of the dispositive motions deadline in this case will ensure that these lingering hurdles can be resolved before the parties elect to file motions for summary judgment.

Moreover, no party will be prejudiced if deadlines are extended. In fact, the opposite will be true: the parties could needlessly expend time and resources to prepare dispositive motions only to find, depending on the Court's ruling on the pending Motions and Objection, that the operative complaint is amended or a dispositive motion is rendered moot.

#### IV. PROPOSED EXTENDED DEADLINES

LVMPD Defendants respectfully request that this Court extend deadlines in this case as follows:

<u>Activity</u>	<u>Current Date</u>	<u>Proposed Date</u>
Dispositive Motions	October 27, 2021	December 10, 2021
Proposed Joint Pretrial Order	November 29, 2021	January 10, 2022

##### 1) *Dispositive Motions*

All pretrial motions, including but not limited to, discovery motions, motions to dismiss, motions for summary judgment, and all other dispositive motions shall be filed and served no later than thirty days after the close of discovery, or by **December 10, 2021**.

##### 2) *Motions in Limine*

Under LR 16-3(b), any motions in limine, including *Daubert* motions, shall be filed and served thirty days prior to the commencement of Trial. Oppositions shall be filed and served and the motion submitted for decision fourteen days thereafter. Reply briefs will be allowed only with leave of the Court.

##### 3) *Pretrial Order*

Pursuant to LR 26(1)(e)(5), the Joint Pretrial Order shall be filed with this Court no later

1 than thirty days after the date set for filing dispositive motions, or by **January 10, 2022**, unless  
2 dispositive motions are filed, in which case the date for filing the Joint Pretrial Order shall be  
3 suspended until thirty days after the decision on the dispositive motions or further order of this  
4 Court. The disclosures required by Fed. R. Civ. P. 26(a)(3) and any objections shall be included  
5 in the final pretrial order.

6 **4) *Extensions or Modification of the Discovery Plan and Scheduling Order***

7 In accordance with LR 26-3, applications to extend any date set by the discovery plan,  
8 scheduling order, or other order must, in addition to satisfying the requirements of LR 6-1, be  
9 supported by a showing of good cause for the extension. All motions or stipulations to extend a  
10 deadline set forth in a discovery plan shall be received by the Court not later than twenty-one  
11 days before the expiration of the subject deadline. A request made after the expiration of the  
12 subject deadline shall not be granted unless the movant demonstrates that the failure to set was  
13 the result of excusable neglect. Any motion or stipulation to extend a deadline or to reopen  
14 discovery shall include:

- 15 (a) A statement specifying the discovery completed;
- 16 (b) A specific description of the discovery that remains to be completed;
- 17 (c) The reasons why the deadline was not satisfied or the remaining discovery was  
18 not completed within the time limits set by the discovery plan; and
- 19 (d) A proposed schedule for completing all discovery.

20 This request for an extension is made in good faith and joined by all the parties in this  
21 case. The Request is timely pursuant to LR 26-3. Trial is not yet set in this matter and  
22 dispositive motions have not yet been filed. Accordingly, this extension will not delay this case.  
23 Moreover, since this request is a stipulated request, none of the parties will be prejudiced. The  
24 extension will allow the parties the necessary time to complete discovery and fully vet a possible



1 resolution of this matter.

2 This request for an extension is made in good faith and joined by all the parties in this  
3 case. Further, the request is timely pursuant to LR 26-3, and it will allow the parties the  
4 necessary time to complete discovery and pursue this case on its merits.

5 DATED this \_\_\_\_\_ day of October, 2021.

DATED this \_\_\_\_\_ day of October, 2021.

6 KAEMPFER CROWELL

CLARK CO. DIST. ATTORNEY,  
CIV. DIV.

7  
8 By: \_\_\_\_\_

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13 *Attorneys for Defendants*  
14 *Sarah Overly and Stephanie Getler*

13 DATED this \_\_\_\_\_ day of October, 2021.

14 PLAINTIFF

15 By: \_\_\_\_\_

16 Jermaine Hampton, #1221724  
Southern Desert Correctional  
17 Center  
P.O. Box 208  
18 Indian Springs, NV 89070  
19 *Plaintiff, Pro Se*

20 **IT IS SO ORDERED.**

21 DATED this \_\_\_\_\_ day of October, 2021.

22  
23 \_\_\_\_\_  
UNITED STATES MAGISTRATE JUDGE